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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/295,690	04/21/1999	JEROME A MOUTON JR.	081862.P122	7482

7590 06/03/2003

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EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 06/03/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

16

Office Action Summary

Application No.

09/295,690

Applicant(s)

MOUTON ET AL.

Examiner

Jean B Fleurantin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Claims 1-17 are remained pending for examination.

Information Disclosure Statement

2. The references cited in the Information Disclosure Statement, PTO-1449, have been fully considered.

Response to Applicant's Remarks

3. Applicant's arguments filed 3/20/03 have been fully considered but are they not persuasive.

Applicants stated on pages 6-7, that "the Office Action failed to point out any motivation for the asserted modification of Myer other than the advantage provided by the Applicants own disclosure." The Examiner disagrees with this assertion. The claims do not capture the essence of the invention as argued in Applicants' remark on pages 6-8. Applicants failed to rebut the Examiner's prima facie case for obviousness by failing to address the correspondences drawn between the prior art and Applicants' claimed subject matter. In paper number 13, the Examiner went through the claims phrase by phrase and referred to the prior art column and line number as the where he has drawn the correspondences between Applicants' claim phrases and prior art. By failing to address these correspondences, Applicants have failed to rebut the Examiner's prima facie case of obviousness uses for a different purpose which does not alter the conclusion that its uses in a prior art device would be prima facie obvious from the purpose disclosed in the reference. However, Meyer includes each time the message store is initiated the manager

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task queues a worker request to check for any messages of an older version, a dmsII, msg by version which provides sequential access to all the messages sorted by the message format version field; will be used by the worker to identify messages in the database that are not of the 'current' version; which is readable as repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated, (see cols. 6-7, lines 66-6). Thus, it would have been obvious to a person of ordinary in the art at time the invention was made to modify the teachings of Meyer with repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated. This modification would allow the teachings of Meyer to improve the accuracy and the reliability of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide a method for redelivery of messages having an associated message version number (see col. 2, lines 60-62). Furthermore, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one ordinary skill in the art. In re McLaughlin, 170USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozec, 163 USPQ 545 (CCPA) 1969. Thus, Meyer includes determining whether a stored message

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is formatted in accordance with a current message format prescribed for use in said messaging system, see col. 10, lines 6-8. Therefore, the Examiner is entitled to the broadest reasonable interpretation of the claims, and the Applicants always have opportunity to amend the claims during prosecution and broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969).

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (US Pat. No. 6,148,329) ("Meyer").

As per claims 1, 5, 9 and 13, Meyer teaches a method of updating a message from a first version to an upgraded version by chaining through intermediate versions (see col. 2, lines 39-47) as claimed, comprises receiving an update message having a first version format (thus, an effect of the step of redelivering the stored message is to update the format of the message to the current format; receiving an update message having a first version format)(see col. 2, lines 45-47); further, in column 3, lines 4 through 11, Meyer teaches retrieving a first message from the mailbox or folder ordered by version number, determining whether redelivery is being specifically requested or forced by the mail

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administrator if redelivery is being forced setting the message version to a number which is different from a current version. But, Meyer does not explicitly indicate steps repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated. However, Meyer implicitly indicates each time the message store is initiated the manager task queues a worker request to check for any messages of an older version, a dmsII, msg by version which provides sequential access to all the messages sorted by the message format version field, will be used by the worker to identify messages in the database that are not of the 'current' version; which is readable as repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated, (see cols. 6-7, lines 66-6). Thus, it would have been obvious to a person of ordinary in the art at time the invention was made to modify the teachings of Meyer with repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated. This modification would allow the teachings of Meyer to improve the accuracy and the reliability of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide a method for redelivery of messages having an associated message version number (see col. 2, lines 60-62).

As per claims 2, 6, 10 and 15, in addition to the discussion in claim 1, Meyer further teaches calling a next most recent version mapping function to map contents of the first update message to generate a second update message (thus, setting the message

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version to a number which is different from a current version; which is readable as calling a next most recent version mapping function to map contents of the first update message to generate a second update message)(see col. 3, lines 8-9).

As per claims 3, 7, 11 and 16 the limitations of the claims 3, 7, 11 and 16 are rejected in the analysis of claim 1, and these claims are rejected on that basis.

As per claims 4, 8, 12 and 17, Meyer teaches a method as claimed, wherein the set of records for the database in the first version is a complete set of records for the database (thus, all existing messages will preferably be converted to the new format, the need for the conversion is automatically recognized by the message store; which is readable as wherein the set of records for the database in the first version is a complete set of records for the database)(see col. 6, lines 52-54).

As per claim 14, Meyer teaches a method as claimed, wherein the network switching device receives a first update message (thus, previously received messages in the database need to be updated to reflect the new and existing attribute definitions, message delivery addresses this need by providing a mechanism whereby the message store deletes the previously captured message attribute information and recreates it as if the messages were just being delivered for the first time; which is readable as wherein the network switching device receives a first update message)(see figure 1, col. 4, lines 42-49).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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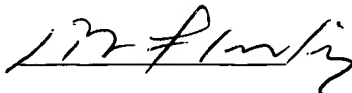
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. Any inquiry concerning this communication from examiner should be directed to Jean Bolte Fleurantin at (703) 308-6718. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 6:00 P.M.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Mrs. KIM VU can be reached at (703) 305-8449. The FAX phone numbers for the Group 2100 Customer Service Center are: ***After Final (703) 746-7238, Official (703) 746-7239, and Non-Official (703) 746-7240.*** NOTE: Documents transmitted by facsimile will be entered as official documents on the file wrapper unless clearly marked ***"DRAFT"***.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2100 Customer Service Center receptionist whose telephone numbers are (703) 306-5631, (703) 306-5632, (703) 306-5633.



Jean Bolte Fleurantin

May 29, 2003

JBF/



JEAN M. CORRIELLUS
PRIMARY EXAMINER